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IN THE

Supreme Court of the United States

No. 79-86

AMY T. CRITZER,
Petitioner,

v.

UNITED STATES OF AMERICA,
Respondent.

PETITIONER'S MEMORANDUM IN REPLY

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The Justice Department's Memorandum in Opposition has addressed only the second question presented in this case, namely, whether the Indian's tourist business income on tax-exempt land is exempt. It ignored the first question (see Pet. at 2) of whether the Indian's income allocable to improvements is exempt.

This omission may lead the Court to think that the two questions are merely restatements of each other, and that the only real question is exemption of tourist business income. The issues overlap to some extent, but a decision on one would not resolve the other. Even if tourist business income should be taxable, the land component of that income is exempt,[1] and we argue that surely the land's exemption would apply to the perma-

[1] The IRS has always treated rents from Indian Trust land as exempt, no matter what business produced the rents. Rev. Rul. 56-342, 1956-2 C.B. 20. It was this fact that led it to exempt ranching income, even though partly derived from non-land elements. *See* Pet. at 10 n.23.

nent improvements which are part of the realty.[2] Of the two questions, this one is probably the more important to Indians, and is certainly the one decided below most inconsistently with the Indian and common law precedents. *See* Pet. at 16-18.

Both questions, but especially the improvement question, are needed to be reviewed by this Court, and the petition for a writ of certiorari should be granted.

Respectfully submitted,

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[2] *United States* v. *Rickert*, 188 U.S. 432 (1903), so held. The whole purpose of exempting the land (to encourage the Indian to make a living from it) is frustrated if the improvements are not exempt too. *Id.* at 442.